

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CONDALEE MORRIS,

Plaintiff,

v.

LUCY H. KOH, et al.,

Defendants.

Case No. [16-cv-00581-JD](#)

**ORDER DENYING MOTION FOR
RELIEF FROM FINAL
JUDGMENT**

Re: Dkt. No. 12

This is a civil rights case filed pro se by a state prisoner. The case was dismissed at screening for failure to state a claim on April 29, 2016. Plaintiff has now filed a motion for relief from final judgment pursuant to Fed. R. Civ. P. 60(b).

Rule 60(b) lists six grounds for relief from a judgment. Such a motion must be made within a “reasonable time,” and as to grounds for relief (1) - (3), no later than one year after the judgment was entered. *See* Fed. R. Civ. P. 60(b). Rule 60(b) provides for reconsideration where one or more of the following is shown: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered before the court's decision; (3) fraud by the adverse party; (4) the judgment is void; (5) the judgment has been satisfied; (6) any other reason justifying relief. Fed. R. Civ. P. 60(b); *School Dist. 1J v. ACandS Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Rule 60(b) provides a mechanism for parties to seek relief from a judgment when “it is no longer equitable that the judgment should have prospective application,” or when there is any other reason justifying relief from judgment. *Jeff D. v. Kempthorne*, 365 F.3d 844, 853-54 (9th Cir. 2004) (quoting Fed. R. Civ. P. 60(b)).

Plaintiff sought monetary and declaratory relief because a District Judge in this Court denied his motions for default judgment in another case. Plaintiff alleged that Judge Lucy Koh denied several of his motions for default judgment in another case, *Morris v. Sandoval*, Case No. 12-cv-6132-JD, that was previously assigned to Judge Koh. He also alleged that the former Clerk


1 of Court erred in sending out waivers of service of summons' to defendants. It was noted that
2 Case No. 12-cv-6132 continues and counsel was recently appointed for plaintiff.

3 Plaintiff was informed that he was not entitled to relief because defendants were entitled to
4 immunity for these acts performed in their judicial capacities and functions. To the extent plaintiff
5 seeks to file an amended complaint raising claims regarding medical care he can file a new case.
6 To the extent plaintiff seeks to amend his claims in Case No. 12-cv-6132, or seeks to raise issues
7 in that case, he must speak with his appointed attorneys and proceed in that case. Because
8 plaintiff has not shown that he is entitled to relief pursuant to Fed. R. Civ. P. 60(b), this motion
9 (Docket No. 12) is **DENIED**.

10 **IT IS SO ORDERED.**

11 Dated: November 18, 2016

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



JAMES DONATO
United States District Judge

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CONDALEE MORRIS,
Plaintiff,

v.

LUCY H. KOH, et al.,
Defendants.

Case No. [16-cv-00581-JD](#)

CERTIFICATE OF SERVICE

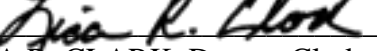
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 18, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Condalee Morris ID: V96203
CSP-Sacramento
P.O. Box 290060
Represa, CA 95671

Dated: November 18, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO